

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ENEQUE JEAN-LOUIS, ANGEL PINAREYES,
TOMAS TORES-DIAZ, ROSELIO MENDOZA,
EDWIN PEGUERO, JONNATAL PERALTA, and
ROBIN SORIANO, Individually And On Behalf Of
All Other Persons Similarly Situated,

Plaintiffs,

-against-

METROPOLITAN CABLE COMMUNICATIONS,
INC., RICHARD PANG, JOHN SNYDER, BILL
BAKER, PATRICK LONERGAN, JOHN GAULT,
and TIME WARNER CABLE OF NEW YORK
CITY, A DIVISION OF TIME WARNER
ENTERTAINMENT COMPANY, L.P.,

Defendants.

No. 09-Civ-6831 (ALC)(MHD)

**MEMORANDUM IN SUPPORT OF MOTION FOR
LEAVE TO WITHDRAW AS COUNSEL**

Preliminary Statement

Klafter Olsen and Lesser LLP, Asher Gaughran LLP and Berger Attorney, P.C., are the attorneys of record for Plaintiffs, Jonnatal Peralta, Edwin Peguero, Robin Soriano, and Roselio Mendoza (“non-settling Plaintiffs”). Counsel respectfully submits this memorandum in support of their application for an Order relieving these law firms as counsel to the non-settling Plaintiffs.

Relevant Facts

The facts relevant to this application are set forth in the supporting Declaration of Fran L. Rudich (the “Rudich Declaration”).

POINT 1

**THE CIRCUMSTANCES HERE MANDATE ENTRY OF AN ORDER RELIEVING
THEM FROM FURTHER REPRESENTATION**

The Local Civil Rules of this Court provide:

Rule 1.4 Withdrawal or Displacement of Attorney of Record

An attorney who has appeared as attorney of record for a party may be relieved or displaced only by order of the court and may not withdraw from a case without leave of the court granted by order. Such an order may be granted only upon a showing by affidavit or otherwise of satisfactory reasons for withdrawal or displacement and the posture of the case, including its positions, if any, on the calendar.

In determining whether to grant a request under Rule 1.4, the Court will review the requesting attorney's obligation under the Code of Professional Responsibility. As adopted by the State of New York, DR 2-110 (C)(1)(d) permits withdrawal by counsel in circumstances where the client "[b]y other conduct renders it unreasonably difficult for the lawyer to carry out employment effectively."

As set forth in the accompanying Rudich Declaration, as a result of the non-settling Plaintiffs unwillingness to agree to what counsel and an experienced third party mediator have deemed to be a reasonable and fair settlement in this Class/Collective action (and which has been accepted by the class and collective named Plaintiffs), there has been a complete breakdown in the attorney-client relationship. In fact, as more fully described in the Rudich Dec., the non-settling Plaintiffs they affirmatively advised that they no longer want to be represented by moving counsel. As a result of these circumstances, there exists compelling reasons for this Court to grant counsel's application to relieve Klafter Olsen and Lesser LLP, Asher Gaughran LLP and Berger Attorney, P.C., as counsel to the non-settling Plaintiffs.

Conclusion

Plaintiffs' counsel, through the Rudich Dec., and this memorandum, have described the current breakdown of the attorney-client relationship with the non-settling Plaintiffs, which has culminated in these Plaintiffs advising they no longer wish counsel to represent them in this matter. Thus, this application to withdraw is necessary in light of this fundamental breakdown of communication and failure to reach a mutual understanding and agreement regarding the merits of the case. In keeping with the statutory requirements and policy considerations which guide this Court, it is appropriate that the Court fully grant the instant application.

Dated: Rye Brook, New York
June 15, 2012

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